

09/965.26701AB071**REMARKS**

Claims 1-18 are currently pending in the subject application and are presently under consideration. Claims 3-11, 13-14, and 16 have been amended to correct minor informalities. A listing of claims can be found on pg. 9-13. In addition, the specification has been amended as indicated on pg. 2-8. Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

I. Rejection of Claims 1-18 Under 35 U.S.C. §103(a)

Claims 1-18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Cole *et al.* (US 5,854,901) in view of Arndt *et al.* (US 5,724,510). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Cole *et al.* and Arndt *et al.*, alone or in combination, do not teach or suggest all the limitations of the subject claims.

To reject claims in an application under §103, an examiner must establish a *prima facie* case of obviousness. A *prima facie* case of obviousness is established by a showing of three basic criteria. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) *must teach or suggest all the claim limitations*. See MPEP §706.02(j). The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. See *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Applicants' claimed invention relates to a system and method of detecting and preventing the use of a duplicate IP address so that a device can select and set a new IP address. (See pg. 5, ll. 2). In particular, independent claim 1 (and similar independent claims 12, 15, 17, and 18) recites *generating an identifying value that identifies a random period of time to wait before probing a network with which a probing entity*

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desires to interact. Cole *et al.* and Arndt *et al.*, alone or in combination, do not teach or suggest such novel aspect of the invention as claimed.

Cole *et al.* describes a serverless network protocol that discovers IP addresses for network endpoints. (See col. 1, ll. 10-12). The Examiner concedes that Cole *et al.* does not specifically disclose *generating an identifying value that identifies a random period of time to wait before probing a network with which a probing entity desires to interact.* (See pg. 3). In order to cure this deficiency, the Examiner offers Arndt *et al.*

Arndt *et al.* describes a method for configuring valid IP addresses for a LAN test instrument and detecting duplicate IP addresses between devices in a LAN. (See col 1, ll. 7-10). The Examiner contends that Arndt *et al.* discloses generating an identifying value that identifies a random period of time to wait before probing a network with which a probing entity desires to interact at col. 1, ll. 28-34. (See pg. 3). Applicants' representative respectfully disagrees with such contention. At the indicated passage, Arndt *et al.* describes a method that resolves collisions between nodes. When two or more nodes try to send information at the same time, a collision occurs. A "back off" procedure then operates, where each node waits a random period of time before attempting to send the information again. (See col. 1, ll. 28-34). Arndt *et al.* therefore performs the "back off" procedure after a collision occurs, not before the network is probed. The invention as claimed, in contrast, identifies a random period of time to wait before the network is probed and thus before a collision could possibly occur. It is thus submitted that waiting a random period of time before resending the information *after a collision* is not equivalent to generating a random period of time to wait *before probing a network* as recited in the subject claims. Therefore, Arndt *et al.* fails to teach or suggest such novel aspect as claimed.

In view of at least the foregoing, it is readily apparent that Cole *et al.* and Arndt *et al.*, alone or in combination, do not teach or suggest the invention as recited in independent claims 1, 12, 15, 17, and 18 (and associated dependent claims 2-11, 13-14, and 16). Accordingly, this rejection should be withdrawn.

09/965,26701AB071**CONCLUSION**

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063.

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,

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